

35A-1-301 Presiding officers for adjudicative proceedings -- Subpoenas -- Independent judgment -- Consolidation -- Record -- Notice of order.

- (1)
- (a) The executive director shall authorize the Division of Adjudication to call, assign a presiding officer, and conduct hearings and adjudicative proceedings when an application for a proceeding is filed with the Division of Adjudication under this title.
 - (b) The director of the Division of Adjudication or the director's designee may issue subpoenas. Failure to respond to a properly issued subpoena may result in a contempt citation and offenders may be punished as provided in Section 78B-6-313.
 - (c) Witnesses subpoenaed under this section are allowed fees as provided by law for witnesses in the district court of the state. The fees shall be paid as follows:
 - (i) The witness fees shall be paid by the state unless the witness is subpoenaed at the instance of a party other than the department.
 - (ii) Notwithstanding Subsection (1)(c)(i), if the subpoena is issued under Chapter 4, Employment Security Act, the fees are part of the expense of administering that chapter.
 - (d) A presiding officer assigned under this section may not participate in any case in which the presiding officer is an interested party. Each decision of a presiding officer shall represent the presiding officer's independent judgment.
- (2) In the judgment of the presiding officer having jurisdiction of the proceedings the consolidation would not be prejudicial to any party, when the same or substantially similar evidence is relevant and material to the matters in issue in more than one proceeding:
- (a) the presiding officer may fix the same time and place for considering each matter;
 - (b) jointly conduct hearings;
 - (c) make a single record of the proceedings; and
 - (d) consider evidence introduced with respect to one proceeding as introduced in the others.
- (3)
- (a) The director shall keep a full and complete record of all adjudicative proceedings in connection with a disputed matter.
 - (b) All testimony at any hearing shall be recorded but need not be transcribed unless the disputed matter is appealed. If a party requests transcription, the transcription shall be provided at the party's expense.
 - (c) All records on appeals shall be maintained in the offices of the Division of Adjudication. The records shall include an appeal docket showing the receipt and disposition of the appeals.
- (4) A party in interest shall be given notice of the entry of a presiding officer's order or any order or award of the department. The mailing of the copy of the order or award to the last-known address in the files of the department of a party in interest and to the attorneys or agents of record in the case, if any, is considered to be notice of the order.
- (5) In any formal adjudication proceeding, the presiding officer may take any action permitted under Section 63G-4-206.

Amended by Chapter 3, 2008 General Session

Amended by Chapter 382, 2008 General Session